

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

MICHAEL MOHAMMED SALAMI,

Plaintiff,

No. 19-11683

v.

District Judge George Caram Steeh  
Magistrate Judge R. Steven Whalen

TRUMBLEY, ET AL.,

Defendants.

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**ORDER**

Plaintiff, a *pro se* litigant in this civil rights action brought under 42 U.S.C. §1983, has filed a motion to strike Defendants' affirmative defenses [ECF No. 31].

Fed.R.Civ.P. 12(f) provides that upon the motion of a party, or upon the court's own initiative, "the court may order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter." Motions to strike affirmative defenses under Rule 12(f) are addressed to the court's discretion, although they are generally disfavored. *Ameriwood Industries International Corp. v. Arthur*, 961 F.Supp. 1078, 1083 (W.D.Mich.1997). Such motions are to be considered carefully and not freely granted; striking an affirmative defense "is a drastic remedy to be resorted to only when required for the purposes of justice." *Brown & Williamson Tobacco Corp. v. United States*, 201 F.2d 819, 822 (6th Cir.1953); *Kelley v. Thomas Solvent Co.* 714 F.Supp. 1439, 1442 (W.D.Mich.1989). An affirmative defense is insufficient "if, as a matter of law, the defense cannot succeed under any circumstances," and a motion to strike is appropriate "where it will eliminate spurious issues before trial and streamline the litigation." *Ameriwood*, 961 F.Supp. at 1083; *Kelley*, 714 F.Supp. at 1442.

The Defendants, who were only recently served, returned their waivers of service on December 20, 2019, and they have not yet filed answers or responsive pleadings, much less affirmative defenses. Plaintiff's motion is at best premature and speculative. There are no affirmative defenses to strike today.

Therefore, Plaintiff's motion [ECF No. 31] is DENIED.

IT IS SO ORDERED.

s/R. Steven Whalen  
R. STEVEN WHALEN  
UNITED STATES MAGISTRATE JUDGE

Dated: December 30, 2019

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was sent to parties of record on December 30, 2019, electronically and/or by U.S. mail.

s/Carolyn M. Ciesla  
Case Manager to the  
Honorable R. Steven Whalen